

III. Correspondence and Reports.

D. CONFIDENTIAL CORRESPONDENCE—*concluded.*

municated to the officers concerned under Revenue, Financial and General Departments for information and guidance :—

(i) Confidential papers should not pass in usual course through an office. Only the head of the office and a few trustworthy clerks (whose names are to be noted) should deal with them.

(ii) Confidential papers should pass from hand to hand either by personal delivery or be sent in sealed covers.

(iii) The entries in the ordinary office registers and diaries should be made from slips furnished by the confidential clerk who deals with the papers, and should be very general, sufficient merely to admit of the paper being traced, and referring to a separate register. This separate register should be kept by the Confidential Clerk, and should be in the same form and as full as the general register kept for ordinary correspondence.

(iv) Confidential papers should not be brought on the ordinary proceedings, but should be separately recorded, and kept under the personal custody of the Confidential Clerk. If printed, the spare copies and the volumes of proceedings should be treated with the same attention as the originals, and when forwarded for information or use of Government, should be carefully packed under double cover.

(v) As few copies of confidential papers as possible should be printed and a register should be kept of these showing how each copy has been disposed of.

(vi) When confidential papers are sent out of an office they should be put into double covers, the inner one marked "Confidential," and superscribed with only the name of the addressee, and the outer one bearing the usual official address.*

IV. RULES FOR THE INSTITUTION AND DEFENCE OF SUITS.

A. Institution of Suits on behalf of Government.

439. The following rules for the guidance of all officers in connection with the institution and defence of suits and other civil proceedings in the mofussil, in which Government or any officer of Government is a party, or in which Government have any interest, are issued in supersession of all existing rules or orders on the same subject. These rules do not apply to the Province of Sind :—

Preamble with note regarding the Province of Sind.

NOTE.—The Sind Rules are, with the following verbal modifications, identical with those for the rest of the Presidency and were published in Notification No. 6849, *Bombay Government Gazette*, 1882, Part I, pages 951 and 961.

(a) In rules 28, 32, 37 (2), 41, 42, 43, 44, 45, 47, 48, 49 and 71 of the Sind Rules *substitute* "Sadar Court" for the words "High Court."

* Government Resolution No. 1001, dated 18th March 1882.

IV. Rules for the Institution and Defence of Suits.

A. INSTITUTION OF SUITS ON BEHALF OF GOVERNMENT—*continued.*

(b) In the Sind Rules *omit* in No. 42 the words "If the Court records" to "return the papers."

(c) In the Sind Rules *omit* in No. 44 the words from "in accordance with" to "page 167."

440. Rule 1.—Any officer wishing to institute a suit shall submit a clear and detailed report, through the ordinary channel of communication, to the head of his Department, showing—

(a) the circumstances which render the suit necessary ;

(b) the exact nature of the claim for which it is to be brought ;

(c) the steps, if any, which have been taken to obtain satisfaction of the claim without bringing a suit ;

(d) what objection or excuse, if any, the defendant has urged against the claim ;

(e) the evidence, both oral and documentary, which it is proposed to adduce in support of the claim ; and

(f) the evidence which, so far as is known, the defendant will be able to adduce in his defence.

All documents relied upon, and all the correspondence and written proceedings, whether in English or in the vernacular, connected with the proposed suit, should accompany the report.

Rule 2.—It should be stated in the report whether or not the circumstances of the person against whom it is proposed to institute the suit are such as to render it likely that execution will be obtained of any decree that may be given against him.

Solvency of defendant to be inquired into.

The probability of the recovery of a sum at least equal to the costs should be ascertained before recommending the institution of any suit, unless, for reasons which should be explained, it is considered that the suit should be brought, notwithstanding that the recovery of costs is doubtful.

Rule 3.—The head of the department, if he thinks that all the necessary preliminary steps have been taken, and that there is *prima facie* sufficient cause for the institution of a suit on behalf of Government, shall refer the report with his opinion to the Remembrancer of Legal Affairs.

Report to be referred by head of department to the Legal Remembrancer.

Rule 4.—The Remembrancer of Legal Affairs will then thoroughly inform himself of the whole of the circumstances, calling for such further information, or additional papers, as he thinks necessary, and report his opinion to Government in detail as to the advisability of instituting a suit.

Legal Remembrancer's duty on receipt of report.

The report of the officer who proposed the institution of the suit and the opinion of the head of the department should accompany the report of the Remembrancer of

IV. Rules for the Institution and Defence of Suits.

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Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

Rule 5.—The report of the officer who proposed the institution of the suit and all other documents accompanying the report of the Remembrancer of Legal Affairs to Government will be returned to him with the order of Government for record in his office.

Papers to be recorded in the Legal Remembrancer's office.

Rule 6.—If the institution of the suit be sanctioned, a draft of the plaint will be prepared by the Government Pleader of the district in which the suit is to be instituted, in consultation with the officer who proposed its institution, and will be submitted by him direct to the Remembrancer of Legal Affairs for approval. After the Legal Remembrancer has accorded his approval thereto, the plaint shall be signed, verified and presented by the said Government Pleader.

Preparation of plaint.

B. Defence of Suits.

441. *Rule 7.*—Section 424 of Civil Procedure Code requires that suits against Government or Government officers should be preceded by a notice to be left either with a Secretary to Government, or with the officer concerned. When a notice of this kind is received by a Secretary to Government it will be at once forwarded to the officer principally concerned in, or cognizant of, the matter respecting which an action is threatened.

Notices of actions and procedure to be followed in dealing with them.

The officer receiving any such notice, whether from a Secretary to Government, or direct from the complainant, should give it immediate and careful attention. The complainant should be desired, when his complaint is vague in the statement of the alleged infringement of this right, or of the officer whose acts are impugned, to set these points forth succinctly and clearly, as the most effectual means towards obtaining such relief as may properly be given. Should it prove impossible to obtain a lucid and definite statement of the complainant's case in this way he should be examined orally as to all important points, and his answers should be taken down in writing, and verified by his signature, or by a memorandum that the paper was read over to the complainant and assented to by him. The documents above referred to should in every case be carefully preserved, together with any that the complainant may produce in support of his claim or complaint.

Rule 8.—The conduct or act complained of may have been either (1) wholly indefensible, (2) justifiable, or (3) of a mixed or doubtful character. In every case the officer receiving the notice should endeavour, without prejudice, to determine to which of these classes it is to be assigned.

Examination of the grounds of complaint.